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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THE UNITED STATES OF AMERICA for
the use and benefit of

WAYNE-DALTON, a division of
OVERHEAD DOOR CORPORATION, a
foreign corporation,

Plaintiff,

vs.

ADVANCED TECHNOLOGY
CONSTRUCTION CORPORATION, a
corporation; and TRAVELERS CASUALTY
AND SURETY COMPANY OF AMERICA,
a foreign insurance company,

Defendants.

NO. C15-886

COMPLAINT FOR RECOVERY ON
PAYMENT BOND UNDER THE
MILLER ACT AND FOR BREACH
OF CONTRACT

Use Plaintiff Wayne-Dalton, a division of Overhead Door Corporation, by its attorney Dennis
J. Perkins, for its complaint against defendants herein alleges as follows:

COMPLAINT FOR RECOVERY ON
PAYMENT BOND UNDER THE MILLER
ACT AND FOR BREACH OF CONTRACT - 1

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2 1. Use Plaintiff Overhead Door Corporation is a corporation organized under the laws of
3 the State of Indiana which conducts business in interstate commerce through its Wayne-Dalton
4 division.
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6 2. On information and belief, defendant Advanced Technology Construction Corporation
7 is a corporation which conducts business in the Western District of Washington.

8 3. On information and belief, defendant Travelers Casualty and Surety Company of
9 America is a foreign corporation which conducts an insurance and surety business in the Western
10 District of Washington.

11 4. This action arises under the Miller Act, 40 USC §§3131-3134.
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13 5. On September 27, 2011, defendant Advanced Technology Construction Corporation
14 entered into a contract with the United States Department of the Navy, contract number N44255-10-D-
15 5004, Delivery Order 0005, for the work of T-060, Marine Corp. Reserve Center, Yakima Training
16 Center.
17

18 6. On or about September 20, 2012, plaintiff entered into a subcontract with Advanced
19 Technology Construction Corporation to supply materials and perform labor in carrying out said
20 defendant's performance of work under the contract described in paragraph 5 above.

21 7. Section 15(B) of the subcontract between plaintiff and defendant Advanced Technology
22 Construction Corporation provides that venue for any lawsuit arising out of said subcontract or the
23 work thereunder shall be in Seattle, Washington.

24 8. On or about the 29th day of September, 2011 Advanced Technology Construction
25
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1 Corporation, as principal, and Travelers Casualty and Surety Company of America, as surety, found
2 themselves jointly and severally liable in the amount of \$12,829,519.83 for the protection of persons
3 supplying labor and materials for the prosecution of the work provided for in the contract between
4 Advanced Technology Construction Corporation and the United States Department of the Navy
5 described in paragraph 5 above.
6

7 9. Plaintiff furnished materials and performed labor as required by the subcontract with
8 defendant Advanced Technology Construction Corporation, and has otherwise performed all
9 conditions precedent to its right to immediate payment. However, despite demands, defendant
10 Advanced Technology Construction Corporation has failed and refused to pay plaintiff the sum of
11 \$20,271.83, which sum should have been paid June 13, 2014.
12

13 10. The last of the labor and materials furnished by Use Plaintiff was June 13, 2014, and
14 more than ninety (90) days have elapsed since the date the last labor and materials were furnished.

15 11. The subcontract between plaintiff and defendant Advanced Technology Construction
16 Corporation described in paragraph 6 above provides that the prevailing party in any lawsuit shall be
17 entitled to recover its reasonable attorneys fees and costs from the non-prevailing party.
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2 WHEREFORE, Use Plaintiff demands judgment jointly and severally against defendants
3 Advanced Technology Construction Corporation and Travelers Casualty and Surety Company of
4 America in the principal sum of \$20,271.83, together with interest thereon from June 13, 2014,
5 reasonable attorneys fees pursuant to the contract between the parties, and all costs of this action.
6

7 DATED this 3rd day of June, 2015.

8
9 LAW OFFICES OF DENNIS J. PERKINS

10 /s/ Dennis J. Perkins

11 Dennis J. Perkins, WSBA #5774

12 Attorney for Use Plaintiff

13 Wayne-Dalton a division of Overhead Door Corporation
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27 COMPLAINT FOR RECOVERY ON
PAYMENT BOND UNDER THE MILLER
ACT AND FOR BREACH OF CONTRACT - 4

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